THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

W.P.No.23283 of 2005

Date:31.10.2005

Between:

B.Vivek, S/o.Srinivasa Sharma.

----------Petitioner

AND

The Regional Manager, APSRTC.

----------Respondent

ORDER:

The petitioner is employed as a Conductor in APSRTC. He was issued a Charge Sheet, dated 11.03.1992, alleging that he was unauthorisedly absent for certain period and that he was required to submit the explanation as to why necessary disciplinary action shall not be taken against him. The petitioner submitted his explanation to the same. On a consideration of the same, the 3rd respondent passed an order, dated 09.10.1992, imposing the penalty of stoppage of annual increment for a period of one year and further directed that it shall have the cumulative effect on the future increments. Against the said order, the petitioner preferred an appeal before the 2nd respondent and the same was rejected. Hence, this Writ Petition.

The only point urged by Sri G.Ravi Mohan, the learned counsel for the petitioner is that the 3rd respondent imposed the penalty of stoppage of annual increment for a period of one year with cumulative effect without conducting

departmental enquiry. He placed reliance upon the judgment of the Apex Court in ***KULWANTH SINGH GILL v. STATE OF PUNJAB*** and submits that stoppage of increment is a major penalty and it cannot be imposed, except by conducting departmental enquiry.

Sri V.T.M.Prasad, the learned Standing Counsel appearing for the respondents, on the other hand, submits that the penalty imposed against the petitioner itself is minimal, if the lapse on his part is taken into account.

It is a matter of record that the 3rd respondent imposed the penalty of stoppage of annual increment for a period of one year with cumulative effect on the allegation that the petitioner was unauthorisedly absent for certain period. Though a charge sheet was issued to the petitioner before the penalty was imposed, no departmental enquiry was conducted. In ***KULWANTH SINGH GILL's case*** (supra), the Supreme Court held that stoppage of increments with cumulative effect is a major penalty and it cannot be imposed, except by conducting departmental enquiry. However, the writ petition is filed at a very belated stage. Instead of either setting aside the impugned order or dismissing the writ petition, this Court is of the view that the penalty of stoppage of increment can be upheld, but its effect be treated as not cumulative. Since the petitioner filed the writ petition at a belated stage, he cannot be extended the benefit of the arrears.

Hence the writ petition is partly allowed directing that the order, dated 09.10.1992, passed by the 3rd respondent shall be treated as the one for stoppage of increment without cumulative effect and that the petitioner shall not be entitled for any monetary benefits up to the date of this order. There shall be no order as to costs.

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31.10.2005

Prv